

Senate File 261 - Introduced

SENATE FILE 261

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1082)

A BILL FOR

1 An Act relating to the technical administration of the tax
2 and related laws by the department of revenue, including
3 the administration of income taxes, sales and use taxes,
4 franchise fees, property taxes, the environmental protection
5 charge, and notification of annexation or severance by
6 cities and including retroactive applicability provisions.
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I
INCOME TAXES

Section 1. Section 2.48, subsection 3, paragraph a, subparagraph (2), Code 2011, is amended to read as follows:

(2) The tax credits for increasing research activities available under sections 15.335, ~~15A.9~~, 422.10, and 422.33.

Sec. 2. Section 15.119, subsection 2, paragraph c, Code 2011, is amended by striking the paragraph.

Sec. 3. Section 15.293A, subsection 2, paragraph f, Code 2011, is amended to read as follows:

f. A tax credit shall not be claimed by a transferee under this section until a replacement tax credit certificate identifying the transferee as the proper holder has been issued. The transferee may use the amount of the tax credit transferred against the taxes imposed in chapter 422, divisions II, III, and V, and in chapter 432, and against the moneys and credits tax imposed in section 533.329, for any tax year the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included as income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~ Any consideration paid for the transfer of the tax credit shall not be deducted from income under chapter 422, divisions II, III, and V, ~~under chapter 432, or against the moneys and credits tax imposed in section 533.329.~~

Sec. 4. Section 15.329, subsection 3, Code 2011, is amended by striking the subsection.

Sec. 5. Section 15.333, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph.

Sec. 6. Section 15.393, subsection 2, paragraph a, subparagraph (3), Code 2011, is amended to read as follows:

(3) After verifying the eligibility for a tax credit under this paragraph "a", the department of economic development shall issue a film, television, and video project promotion

1 program tax credit certificate to be attached to the person's
2 tax return. The tax credit certificate shall contain the
3 taxpayer's name, address, tax identification number, the date
4 of project completion, the amount of credit, other information
5 required by the department of revenue, and a place for the name
6 and tax identification number of a transferee and the amount
7 of the tax credit being transferred. Tax credit certificates
8 issued under this paragraph "a" may be transferred to any person
9 or entity. Within ninety days of transfer, the transferee
10 shall submit the transferred tax credit certificate to the
11 department of revenue along with a statement containing the
12 transferee's name, tax identification number, and address,
13 and the denomination that each replacement tax credit
14 certificate is to carry and any other information required by
15 the department of revenue. Within thirty days of receiving
16 the transferred tax credit certificate and the transferee's
17 statement, the department of revenue shall issue one or more
18 replacement tax credit certificates to the transferee. Each
19 replacement tax credit certificate must contain the information
20 required for the original tax credit certificate and must have
21 the same expiration date that appeared in the transferred
22 tax credit certificate. Tax credit certificate amounts
23 of less than the minimum amount established by rule of the
24 department of economic development shall not be transferable.
25 A tax credit shall not be claimed by a transferee under this
26 paragraph "a" until a replacement tax credit certificate
27 identifying the transferee as the proper holder has been
28 issued. The transferee may use the amount of the tax credit
29 transferred against the taxes imposed in chapter 422, divisions
30 II, III, and V, and in chapter 432, and against the moneys and
31 credits tax imposed in section 533.329, for any tax year the
32 original transferor could have claimed the tax credit. Any
33 consideration received for the transfer of the tax credit shall
34 not be included as income under chapter 422, divisions II, III,
35 and V, ~~under chapter 432, or against the moneys and credits tax~~

1 ~~imposed in section 533.329.~~ Any consideration paid for the
2 transfer of the tax credit shall not be deducted from income
3 under chapter 422, divisions II, III, and V, ~~under chapter~~
4 ~~432, or against the moneys and credits tax imposed in section~~
5 ~~533.329.~~

6 Sec. 7. Section 15.393, subsection 2, paragraph b,
7 subparagraph (2), Code 2011, is amended to read as follows:

8 (2) After verifying the eligibility for a tax credit under
9 this paragraph "b", the department of economic development
10 shall issue a film, television, and video project promotion
11 program tax credit certificate to be attached to the person's
12 tax return. The tax credit certificate shall contain the
13 taxpayer's name, address, tax identification number, the date
14 of project completion, the amount of credit, other information
15 required by the department of revenue, and a place for the name
16 and tax identification number of a transferee and the amount
17 of the tax credit being transferred. Tax credit certificates
18 issued under this paragraph "b" may be transferred to any person
19 or entity. Within ninety days of transfer, the transferee
20 shall submit the transferred tax credit certificate to the
21 department of revenue along with a statement containing the
22 transferee's name, tax identification number, and address,
23 and the denomination that each replacement tax credit
24 certificate is to carry and any other information required by
25 the department of revenue. Within thirty days of receiving
26 the transferred tax credit certificate and the transferee's
27 statement, the department of revenue shall issue one or more
28 replacement tax credit certificates to the transferee. Each
29 replacement tax credit certificate must contain the information
30 required for the original tax credit certificate and must have
31 the same expiration date that appeared in the transferred
32 tax credit certificate. Tax credit certificate amounts
33 of less than the minimum amount established by rule of the
34 department of economic development shall not be transferable.
35 A tax credit shall not be claimed by a transferee under this

1 paragraph "b" until a replacement tax credit certificate
2 identifying the transferee as the proper holder has been
3 issued. The transferee may use the amount of the tax credit
4 transferred against the taxes imposed in chapter 422, divisions
5 II, III, and V, and in chapter 432, and against the moneys and
6 credits tax imposed in section 533.329, for any tax year the
7 original transferor could have claimed the tax credit. Any
8 consideration received for the transfer of the tax credit shall
9 not be included as income under chapter 422, divisions II, III,
10 and V, ~~under chapter 432, or against the moneys and credits tax~~
11 ~~imposed in section 533.329.~~ Any consideration paid for the
12 transfer of the tax credit shall not be deducted from income
13 under chapter 422, divisions II, III, and V, ~~under chapter~~
14 ~~432, or against the moneys and credits tax imposed in section~~
15 ~~533.329.~~

16 Sec. 8. Section 422.7, subsection 9, Code 2011, is amended
17 to read as follows:

18 9. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
19 biofuels credit allowable for the tax year under section 40
20 of the Internal Revenue Code to the extent that the credit
21 increased federal adjusted gross income.

22 Sec. 9. Section 422.33, subsection 5, paragraph f, Code
23 2011, is amended by striking the paragraph.

24 Sec. 10. Section 422.33, subsection 12, paragraph b, Code
25 2011, is amended to read as follows:

26 b. The taxes imposed under this division shall be reduced by
27 investment tax credits authorized pursuant to ~~sections~~ section
28 ~~15.333, 15A.9, subsection 4,~~ and section 15E.193B, subsection
29 6.

30 Sec. 11. Section 422.35, subsection 7, Code 2011, is amended
31 to read as follows:

32 7. Subtract the amount of the alcohol ~~fuel~~ and cellulosic
33 biofuels credit allowable for the tax year under section 40
34 of the Internal Revenue Code to the extent that the credit
35 increased federal taxable income.

1 Sec. 12. Section 422.36, subsection 4, Code 2011, is amended
2 to read as follows:

3 4. Foreign and domestic corporations shall file a copy of
4 their federal income tax return for the current tax year with
5 the return required by this section.

6 Sec. 13. Section 422.89, subsection 3, unnumbered paragraph
7 1, Code 2011, is amended to read as follows:

8 An amount equal to ~~ninety~~ one hundred percent of the tax for
9 the taxable year computed by placing on an annualized basis the
10 taxable income:

11 Sec. 14. REPEAL. Section 15A.9, Code 2011, is repealed.

12 Sec. 15. RETROACTIVE APPLICABILITY. The following
13 provision or provisions of this division of this Act apply
14 retroactively to January 1, 2011, for tax years beginning on
15 or after that date:

16 1. The section of this Act amending section 422.89.

17 DIVISION II

18 SALES TAXES

19 Sec. 16. Section 423.3, subsection 40, Code 2011, is amended
20 to read as follows:

21 40. The sales price from the sale of automotive fluids
22 to a retailer to be used either in providing a service which
23 includes the installation or application of the fluids in
24 or on a motor vehicle, which service is subject to section
25 423.2, subsection 6, or to be installed in or applied to a
26 motor vehicle which the retailer intends to sell, which sale
27 is subject to section ~~423.26~~ 321.105A. For purposes of this
28 subsection, automotive fluids are all those which are refined,
29 manufactured, or otherwise processed and packaged for sale
30 prior to their installation in or application to a motor
31 vehicle. They include but are not limited to motor oil and
32 other lubricants, hydraulic fluids, brake fluid, transmission
33 fluid, sealants, undercoatings, antifreeze, and gasoline
34 additives.

35 Sec. 17. Section 423.36, subsection 3, paragraph a, Code

1 2011, is amended to read as follows:

2 a. The department shall grant and issue to each applicant
3 a permit for each place of business in this state where sales
4 or use tax is collected. A permit is not assignable and is
5 valid only for the person in whose name it is issued and for the
6 transaction of business at the place designated or at a place
7 of relocation within the ~~state~~ same county if the ownership
8 remains the same.

9 Sec. 18. Section 423.57, Code 2011, is amended to read as
10 follows:

11 **423.57 Statutes applicable.**

12 The director shall administer this subchapter as it relates
13 to the taxes imposed in this chapter in the same manner and
14 subject to all the provisions of, and all of the powers,
15 duties, authority, and restrictions contained in sections
16 423.14, 423.15, 423.16, 423.17, 423.19, 423.20, 423.21, 423.22,
17 423.23, 423.24, 423.25, ~~423.28~~, 423.29, 423.31, 423.32, 423.33,
18 423.34, 423.34A, 423.35, 423.37, 423.38, 423.39, 423.40,
19 423.41, and 423.42, section 423.43, subsection 1, and sections
20 423.45, 423.46, and 423.47.

21 Sec. 19. REPEAL. Section 423.28, Code 2011, is repealed.

22 DIVISION III

23 PROPERTY TAXES

24 Sec. 20. Section 427B.4, Code 2011, is amended to read as
25 follows:

26 **427B.4 Application for exemption by property owner.**

27 1. a. An application shall be filed for each project
28 resulting in actual value added for which an exemption is
29 claimed. The first application for exemption shall be filed
30 by the owner of the property with the ~~local assessor~~ governing
31 body of the city or county in which the property is located by
32 February 1 of the assessment year ~~in which the value added is~~
33 ~~first assessed for taxation~~ for which the exemption is first
34 claimed, but not later than the year in which all improvements
35 included in the project are first assessed for taxation, or the

1 following two assessment years.

2 b. Applications for exemption shall be made on forms
3 prescribed by the director of revenue and shall contain
4 information pertaining to the nature of the improvement, its
5 cost, the estimated or actual date of completion, whether the
6 exemption schedules described in section 427B.3 or an alternate
7 schedule adopted pursuant to section 427B.1 will be elected,
8 and any other information deemed necessary by the director of
9 revenue.

10 2. a. A person may submit a proposal to the city council
11 of the city or the board of supervisors of a county to receive
12 prior approval for eligibility for a tax exemption on new
13 construction. The city council or the board of supervisors, by
14 ordinance, may give its prior approval of a tax exemption for
15 new construction if the new construction is in conformance with
16 the zoning plans for the city or county. The prior approval
17 shall also be subject to the hearing requirements of section
18 427B.1.

19 b. Prior approval received under this subsection does not
20 entitle the owner to exemption from taxation until the new
21 construction has been completed and found to be qualified real
22 estate. However, if the tax exemption for new construction is
23 not approved, the person may submit an amended proposal to the
24 city council or board of supervisors to approve or reject.

25 Sec. 21. RETROACTIVE APPLICABILITY. This division of this
26 Act applies retroactively to January 1, 2011, for assessment
27 years beginning on or after that date.

28 DIVISION IV

29 MISCELLANEOUS

30 Sec. 22. Section 364.2, subsection 4, paragraph f, Code
31 2011, is amended to read as follows:

32 f. (1) A franchise fee assessed by a city may be based
33 upon a percentage of gross revenues generated from sales of the
34 franchisee within the city not to exceed five percent, without
35 regard to the city's cost of inspecting, supervising, and

1 otherwise regulating the franchise. Franchise fees collected
2 pursuant to an ordinance in effect on May 26, 2009, shall be
3 deposited in the city's general fund and such fees collected
4 in excess of the amounts necessary to inspect, supervise, and
5 otherwise regulate the franchise may be used by the city for
6 any other purpose authorized by law. Franchise fees collected
7 pursuant to an ordinance that is adopted or amended on or
8 after May 26, 2009, to increase the percentage rate at which
9 franchise fees are assessed shall be credited to the franchise
10 fee account within the city's general fund and used pursuant
11 to section 384.3A. If a city franchise fee is assessed to
12 customers of a franchise, the fee shall not be assessed to the
13 city as a customer. Before a city adopts or amends a franchise
14 fee rate ordinance or franchise ordinance to increase the
15 percentage rate at which franchise fees are assessed, a revenue
16 purpose statement shall be prepared specifying the purpose or
17 purposes for which the revenue collected from the increased
18 rate will be expended. If property tax relief is listed as
19 a purpose, the revenue purpose statement shall also include
20 information regarding the amount of the property tax relief to
21 be provided with revenue collected from the increased rate.
22 The revenue purpose statement shall be published as provided
23 in section 362.3.

24 (2) If a city adopts, amends, or repeals an ordinance
25 imposing a franchise fee, the city shall promptly notify the
26 director of revenue of such action.

27 Sec. 23. Section 368.24, Code 2011, is amended to read as
28 follows:

29 **368.24 Notification to public utilities and to the department**
30 **of revenue.**

31 Notwithstanding any other provision of law to the contrary,
32 any city that annexes territory or any city from which
33 territory is severed shall provide written notification
34 consisting of a legal description and map of the annexed or
35 severed territory, each street address within the annexed

1 or severed area, where possible, a statement containing the
2 effective date of the annexation or severance and a copy of
3 the order, resolution, or ordinance proclaiming the annexation
4 or severance to all public utilities operating in the annexed
5 or severed area and to the department of revenue. If the
6 notification of the an annexation is provided to a public
7 utility less than sixty days prior to the effective date of the
8 annexation, the public utility shall have sixty days from the
9 date of notification to adjust its tax and accounting records
10 to reflect the annexation for any tax purpose.

11 Sec. 24. Section 424.2, subsections 6, 10, and 13, Code
12 2011, are amended to read as follows:

13 6. "*Depositor*" means the person who deposits petroleum into
14 an underground storage tank subject to regulation under chapter
15 455G or an aboveground petroleum storage tank as defined
16 in section 101.21, located at a retail motor ~~vehicle~~ fuel
17 outlet if the aboveground storage tank is physically connected
18 directly to pumps which dispense petroleum that is sold at the
19 motor ~~vehicle~~ fuel outlet on a retail basis.

20 10. "*Owner or operator*" means "*owner or operator*" of an
21 underground storage tank as used in chapter 455G or the "*owner*"
22 or "*operator*" of an aboveground petroleum storage tank as
23 defined in section 101.21, located at a retail motor ~~vehicle~~
24 fuel outlet if the aboveground storage tank is physically
25 connected directly to pumps which dispense petroleum that is
26 sold at the motor ~~vehicle~~ fuel outlet on a retail basis.

27 13. "*Tank*" means an underground storage tank subject to
28 regulation under chapter 455G or an aboveground petroleum
29 storage tank as defined in section 101.21, located at a retail
30 motor ~~vehicle~~ fuel outlet if the aboveground storage tank is
31 physically connected directly to pumps which dispense petroleum
32 that is sold at the motor ~~vehicle~~ fuel outlet on a retail
33 basis.

34 EXPLANATION

35 This bill relates to the technical administration of the tax

1 and related laws by the department of revenue.

2 Division I of the bill relates to income taxes.

3 The division repeals Code section 15A.9, which is the
4 quality jobs enterprise zone program. The program, commonly
5 known as the enterprise zone program, is currently administered
6 pursuant to Code sections 15E.191 through 15E.197, and the last
7 contract issued under the quality jobs enterprise zone program
8 is now expired, making Code section 15A.9 no longer necessary.
9 The bill makes changes to Code sections 2.48, 15.119, 15.329,
10 and 422.33 in conformance with the repeal of Code section
11 15A.9.

12 The division amends Code sections 15.293A and 15.393 to
13 eliminate certain income-related references to the insurance
14 premium tax and moneys and credits tax which are not imposed
15 on an income basis. The amended Code sections relate to
16 the tax credits available for brownfield redevelopment, film
17 expenditures, and film investment.

18 In 2010, the refundability of certain investment tax
19 credits related to value-added agricultural products was
20 repealed. Code section 15.333, subsection 1, paragraph "b",
21 which contains a related provision, was not amended at that
22 time. The division strikes Code section 15.333, subsection 1,
23 paragraph "b", to reflect the changes made in 2010.

24 The division amends Code sections 422.7 and 422.35 to update
25 the name of the individual and corporate tax credits for the
26 production of alcohol and biofuels to be the same as the name
27 of the credit available in section 40 of the federal Internal
28 Revenue Code.

29 The division amends Code section 422.36 to provide that
30 domestic corporations must provide a copy of their federal
31 income tax return when filing their state corporation income
32 tax return.

33 In 2009, certain provisions were enacted to increase the
34 standard for the exception to the underpayment of estimated
35 tax penalty for Iowa corporation income tax for annualization

1 of income from 90 percent of the tax liability to 100 percent
2 of the tax liability. Code section 422.89, which contains a
3 similar provision, was not amended at that time. The bill
4 amends Code section 422.89 to reflect the substance of the
5 changes made in 2009. This provision of the bill applies
6 retroactively to January 1, 2011, for tax years beginning on
7 or after that date.

8 Division II of the bill relates to sales taxes.

9 The division amends Code section 423.3, relating to sales
10 and use tax exemptions, to correct an internal reference to
11 Code section 321.105A relating to the sale of a motor vehicle
12 and the fee for a new vehicle registration.

13 Code section 423.28 required motor vehicle dealers to file
14 reports related to the payment of sales tax for the sale of
15 motor vehicles. Because such sales are now subject to the
16 fee for new vehicle registration, such reports are no longer
17 required, and the division repeals Code section 423.28 and
18 makes a conforming amendment to Code section 423.57.

19 The division amends Code section 423.36 to provide that a
20 new sales tax permit must be obtained if a place of business is
21 relocated from one county to another rather than from within
22 the state. Without updated sales tax permit information, the
23 distribution of local option sales tax revenue may be impacted.

24 Division III of the bill relates to property taxes.

25 The division amends Code section 427B.4 to extend by two
26 years the time period for claiming the industrial real estate
27 or cattle facilities property tax exemptions. Currently, a
28 taxpayer cannot claim one of these exemptions unless it is
29 claimed in the first year the property is eligible for the
30 exemption. This provision of the bill applies retroactively
31 to January 1, 2011, for assessment years beginning on or after
32 that date.

33 Division IV of the bill contains miscellaneous changes.

34 The division amends Code section 364.2, relating to
35 franchise fees imposed by cities, to require a city to notify

1 the department whenever an ordinance imposing a franchise fee
2 is adopted, amended, or repealed. Because the imposition of
3 a franchise fee requires utilities to stop collecting the
4 local option sales and services tax and instead collect the
5 franchise fee, the adoption, amendment, or repeal of such a fee
6 impacts the department's distribution of local option sales and
7 services tax revenue to local governments.

8 The division amends Code section 368.24 to require cities
9 that annex or sever territory to also notify the department of
10 revenue, in addition to notifying public utilities, in order to
11 facilitate the department's distribution of local option sales
12 and service tax revenue to local governments.

13 The division amends Code section 424.2, relating to the
14 environmental protection charge, by correcting out-of-date
15 language referring to motor fuel outlets. The division makes
16 language in Code section 424.2 consistent with similar language
17 used in Code chapter 452A, relating to motor fuel and special
18 fuel taxes.